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**IN THE
COURT OF APPEALS OF INDIANA**

GAIL BROCK,)	
)	
Appellant-Petitioner,)	
)	
vs.)	No. 91A02-0602-CV-121
)	
EDWARD GERMAN,)	
)	
Appellee-Respondent,)	
)	
and)	
)	
MELISSA GERMAN,)	
)	
Appellee-Intervener.)	

APPEAL FROM THE WHITE CIRCUIT COURT
The Honorable J. Philip McGraw, Special Judge
Cause No. 91C01-9709-DR-148

October 4, 2006

MEMORANDUM DECISION - NOT FOR PUBLICATION

KIRSCH, Chief Judge

Gail Brock (“Brock”) appeals the trial court’s garnishment order and raises one issue, which we restate as whether the trial court abused its discretion in ordering that her Social Security Disability (“SSD”) benefits be garnished to pay her child support arrearage.

We affirm.

FACTS AND PROCEDURAL HISTORY

Brock and Edward German (“German”) were married and had two children, J.G., born March 14, 1985, and D.G., born November 18, 1986. Brock and German were divorced on December 24, 1987. German was awarded custody of the two children, and Brock was ordered to pay child support. Brock did not fully meet her child support obligation, and on March 12, 1998, German was awarded a judgment on Brock’s child support arrearage in the amount of \$22,598.07. *Appellant’s App.* at 14-15.

German died on December 12, 2004. His daughter, Melissa German (“Melissa”), had earlier filed a motion to intervene in the proceedings and a petition for emergency custody of the children, which was granted on August 5, 2002. On August 18, 2003, Melissa was granted permanent custody of D.G., who was still a minor, but no custody order was entered as to J.G., who was over eighteen at the time. On April 25, 2005, Melissa filed a petition for proceedings supplemental on the child support judgment because Brock had not paid the judgment. A motion to garnish Brock’s SSD benefits was filed on August 31, 2005.

A hearing was held on the motion for garnishment on October 4, 2005. At the hearing, Brock objected to the garnishment, arguing that her SSD benefits were her only source of income and the garnishment of them would cause her financial hardship. *Tr.* at 3. She also offered to submit to the trial court documentation, which showed that her monthly

SSD benefits were \$750.00, and that after all of her bills were paid, she only had \$5.00 remaining. At the conclusion of the hearing, the trial court took the motion under advisement. On November 28, 2005, the trial court ordered that a garnishment should be issued on Brock's SSD benefits. On December 15, 2005, the trial court issued its final order on garnishment and ordered:

2) That Employer withhold from the weekly earnings of [Brock] the lesser of:

- (a) 25% of [Brock's] earnings after subtracting withholding for federal and state income tax and social security tax; or
- (b) All of [Brock's] earnings after subtracting withholding for federal and state income tax, social security tax and the sum of \$154.50 or equivalent multiples thereof (if pay period is other than one week).

Appellant's App. at 25. Brock filed a motion to correct error on December 28, 2005, which the trial court denied. Brock now appeals.

DISCUSSION AND DECISION

Proceedings supplemental are a continuation of the underlying claim on the merits and not an independent action. *Lewis v. Rex Metal Craft, Inc.*, 831 N.E.2d 812, 817 (Ind. Ct. App. 2005). As such, the validity of the underlying judgment has already been determined, and the proceedings supplemental may progress without a showing that execution has commenced or would be unavailing. *Id.* Although proceedings supplemental are an extension of the underlying action, the parties cannot collaterally attack the underlying judgment. *Id.* A trial court is vested with broad discretion when conducting proceedings supplemental. *Id.* at 820.

Brock argues that the trial court abused its discretion in ordering the garnishment of her SSD benefits because it should have investigated her circumstances to determine if the garnishment would deprive her of self-support at a subsistence level. She bases her argument on Indiana Child Support Guideline 2, which states in the commentary that, “support should be set in such a manner that the obligor is not denied a means of self-support at a subsistence level.” Her contention is misplaced because the Child Support Guidelines only apply in “proceeding[s] for the award of child support.” Ind. Child Support Rule 2. Here, child support had already been awarded, and it had gone unpaid, with an arrearage of \$22,598.07. After the arrearage was determined, and the amount continued to remain unpaid, a petition for a proceeding supplemental was filed to attempt to collect the arrearage. Therefore, the Child Support Guidelines’ support determinations were not applicable because proceedings supplemental cannot be used as a collateral attack on the underlying judgment. *See id.* at 817.

Although the Child Support Guidelines are not applicable, both federal and state laws provide limitations on garnishment. *See* 15 U.S.C. §§ 1671-77; IC 24-4.5-5-105. These laws provide that the maximum amount of an individual’s disposable earnings¹ for any workweek that may be subject to garnishment may not exceed twenty-five percent of the individual’s disposable earnings for that week or the amount that the disposable earnings exceed thirty times the federal minimum hourly wage, whichever is less. 15 U.S.C. § 1673(a); IC 24-4.5-5-105(2). When the garnishment order is for the support of any person, the amount that may

be subject to garnishment may not exceed fifty percent of an individual's disposable earnings if that person is supporting another spouse or dependent child or sixty percent when the person is not supporting such a spouse or dependent child. 15 U.S.C. § 1673(b)(2); IC 24-4.5-5-105(3). These percentages are increased to fifty-five percent and sixty-five percent, respectively, when the garnishment is "to enforce a support order with respect to a period which is prior to the twelve (12) week period which ends with the beginning of such workweek." IC 24-4.5-5-105(3); *see also* 15 U.S.C. § 1673(b)(2).

Therefore, the legislature has mandated these limitations on garnishment, and the trial court was required to follow them. Here, in its final garnishment order, the trial court followed the limitations created by the legislature. We conclude that the trial court did not err in ordering that Brock's SSD benefits be garnished to satisfy her child support arrearage.

Affirmed.

SHARPNACK, J., and MATHIAS, J., concur.

¹ "Disposable earnings" are defined as "that part of the earnings of an individual, including wages, commissions, income, rents, or profits remaining after the deduction from those earnings of amounts required by law to be withheld." IC 24-4.5-5-105.